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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

JOHN GILBERT,)
)
Plaintiff,)
)
vs.)
)
APC NATCHIQ, INC.)
)
Defendant.)
) Case No. 3:03-CV-00174 RRB

AFFIDAVIT OF JOHN GILBERT IN SUPPORT OF MOTION FOR PARTIAL

SUMMARY JUDGMENT CONCERNING NONEXEMPTION OF SAFETY

SUPERVISOR

STATE OF ALASKA)
 : ss.
FOURTH JUDICIAL DISTRICT)

John Gilbert, being first duly sworn, upon oath deposes and states as follows:

1. I am the Plaintiff in the above captioned matter.

2. I did not fill in for Doug Smith as HSC Manager at Kuparak. At times, I was the senior Health and Safety Individual on the slope; however, any time any important decisions were made or any significant problems came up, I was instructed to, and did, contact higher ups for reporting and guidance. At any time I was with APC, I had limited authority.

3. My job as a Safety Supervisor was no different from any Safety Specialist. The major difference between the jobs was I did more Safety Specialist work in the office, if I was not in the office, another Safety Specialist would have to fill in for me. I did do some minor duties, which were different, such as scheduling, and time cards.

4. Very little actual time of mine was spent on duties different from the other Safety Specialists. There was less than 10-15% of my time spent on duties different than the other Safety Specialists.

5. My primary duty as a Safety Supervisor was essentially an office Safety Specialist. I did my position as more of a lead position than a Supervisor position.

6. I did not advise APC on how to run their business. I did what I was told. I did not have the opportunity to exercise discretion or independent judgment on anything, when I was Safety Supervisor at Kuparak, Doug Smith was the boss.

7. I never saw a Safety Supervisor job description until after I filed my lawsuit in this case. I did a diligent search for a Safety Supervisor job description in my paperwork and also called up to Kuparak, in an attempt to find one prior to filing my lawsuit and was unable to obtain one.

FURTHER AFFIANT SAYETH NOT.

DATED this ____ day of August, 2006, at Idaho Falls, Idaho .

JOHN GILBERT

SUBSCRIBED AND SWORN to, before me, this ____ day of August 2006.

NOTARY PUBLIC IN AND FOR THE
STATE OF _____

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing has been
sent electronically to the following attorney(s):

Patricia Zobel
DeLisio Moran Geraghty & Zobel
943 W. 6th Ave.
Anchorage, AK 99501

Dated: 8/4/06

By: /s/ Emily S. Ervin
Emily S. Ervin for Kenneth L. Covell